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[House of Representatives.]

HOUSE OF REPRESENTATIVES, October 7, 1862, ordered to be printed.

[By Mr. LYONS.]

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## AMENDMENT

To Mr. Russell's bill to suspend the writ of *habeas corpus*.

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### A BILL

Authorizing and defining Martial Law, and providing for the suspension of the writ of *habeas corpus* in certain cases.

1 SECTION 1. *The Congress of the Confederate States of*  
2 *America do enact*, That whenever the army of the Con-  
3 federate States or any portion thereof, being not less than  
4 three thousand men, shall be encamped in any city or  
5 town within the Confederate States, or within ten miles  
6 of it, the President shall have authority to proclaim and  
7 establish martial law, as hereinafter defined, in the said  
8 city and camp, and the country surrounding the same,  
9 for a distance in all directions of ten miles from the said

10 camp, if, in his opinion, it be necessary to the discipline  
11 or safety of the said army, or part thereof, or to the  
12 safety of the said city or town, or the preservation of  
13 peace and good order therein, or to prevent or suppress  
14 traitorous or disloyal acts or purposes. And whenever  
15 the army, or such part thereof as aforesaid, shall be en-  
16 camped in any county in any State not within ten miles  
17 of any city or town, the President may, in like manner,  
18 proclaim martial law within said camp and the surround-  
19 ing country for ten miles.

1 SEC. 2. If the encampment of the army or such portion  
2 of it as aforesaid, be so far distant from the seat of Gov-  
3 ernment, or the emergency be so great that the President  
4 cannot be communicated with, and his reply received in  
5 time to meet the exigency of the case, in the opinion of  
6 the commanding officer, then said commanding officer  
7 may establish martial law in said encampment and sur-  
8 rounding country for ten miles as aforesaid, to continue  
9 for the space of ten days, of which he shall immediately  
10 apprise the President, and at the expiration of ten days  
11 the said law shall expire or be continued in force as the  
12 President shall determine,

1 SEC. 3. If any portion of the territory of the Confede-<sup>3</sup>  
2 rate States, or either of them, shall be invaded, or be in  
3 danger of being invaded by the enemy, the President  
4 may, if in his opinion the public interest require it, pro-  
5 claim and establish martial law in the place or district  
6 actually invaded or in danger of invasion, and the coun-  
7 try surrounding the same, for twenty miles in every  
8 direction.

1 SEC. 4. Martial law shall not be established at one  
2 time for a period of more than ninety days, but the  
3 President may, if in his opinion it be necessary to do so  
4 for the causes before mentioned, by his proclamation,  
5 setting forth such necessity, continue it from time to time,  
6 for not more than ninety days each time, until such  
7 necessity shall cease to exist.

1 SEC. 5. When martial law has been proclaimed and  
2 established, the writ of *habeas corpus* shall be suspended  
3 within the district over which the martial law prevails,  
4 if, in the opinion of the President, it shall be necessary  
5 to suspend it, and all trials by Jury in civil cases, shall  
6 be also suspended, except in cases concerning rents,  
7 actions of detinue, and writs of unlawful entry and de-

8 tainer, and no judgment or decree for the payment of  
9 money shall be rendered against any officer or soldier in  
10 actual service in the army of the Confederate States  
11 except in the cases before mentioned, while he contin-  
12 ues in the army.

1 SEC. 6. The President shall cause to be prepared a  
2 proper system of regulations defining all offences against  
3 martial law, and prescribing the punishment thereof, and  
4 establishing courts martial for the trial of offenders  
5 against the same, which courts may consist of one or  
6 three persons, who may be officers of the army, or citi-  
7 zens not in the army, or both, as the President may de-  
8 termine, whose compensation shall be fixed by the Pres-  
9 ident, not exceeding ten dollars per day for every day  
10 the court may be employed, and be paid out of the Treas-  
11 sury upon the order of the Secretary of War. Which  
12 regulation shall be published with the proclamation es-  
13 tablishing martial law, or as soon after as practicable,  
14 and filed also in the Departments of War and Justice:  
15 *Provided*, That the said courts shall not have the power  
16 to confiscate the property of any citizen, whether soldier  
17 or sailor, or not, for any offence except by reasonable

18 fine, or pronounce or inflict the sentence of death upon  
19 any man except for a strictly military offence committed  
20 by an officer or soldier, or sailor, now punishable by  
21 death.

1 SEC. 7. The members of the Senate and House of Rep-  
2 resentatives of the Confederate States, and their officers  
3 and the Heads of Departments, Judges of the Confede-  
4 rate Courts, and Judges of the State Courts, shall not be  
5 subject to martial law.

1 SEC. 8. Whenever the President shall have good cause  
2 to believe that any citizen, not an officer, soldier or sailor  
3 in the army or navy, is engaged in or preparing to com-  
4 mit any treasonable act, or is endeavoring by any means  
5 to hinder or embarrass the Confederate Government, or  
6 any of its generals, in the conduct of the war, or is or has  
7 been dealing in any manner with the enemy, or endea-  
8 voring by any means to bring about a restoration of the  
9 Union formerly existing with the Government of which  
10 Abraham Lincoln is now President, he may cause him  
11 or her to be arrested and confined without bail or main-  
12 prize until he can be examined by one of the courts  
13 hereinbefore mentioned and created, upon the charges

14 which may be made against him or her, and as to such  
15 person the writ of *habeas corpus* shall be suspended. As  
16 soon as conveniently may be after the arrest, such per-  
17 son shall be brought before one of the tribunals afore-  
18 said, by whom the charges against him or her shall be  
19 examined in private or publicly as he may deem best,  
20 securing to the prisoner the benefit of all testimony  
21 which he or she may call for, and allowing him or her  
22 the benefit of counsel, all the facts found upon which ex-  
23 amination, with the opinion of the tribunal upon them,  
24 shall be certified to the Department of Justice. If the  
25 charges be of actual treason, and well founded in the  
26 opinion of the court, the prisoner shall be turned over  
27 to the civil authorities to be dealt with according to law.  
28 If the charge be of disloyalty, and a design to commit  
29 treason, or to do any act with a view to restore the Union  
30 with the Government of which Abraham Lincoln is the  
31 President, or that the prisoner has been dealing in any  
32 manner with the enemy to the prejudice of the Confede-  
33 rate States, the prisoner shall be examined in manner  
34 aforesaid, and the testimony, together with the opinion  
35 of the court upon it, shall be certified to the Department

36 of Justice. If, in the opinion of the court, the charge  
37 against the accused was unfounded, he, or she, shall be  
38 discharged. If, in the opinion of the court, the charge  
39 was well founded, and the public interest demands the  
40 detention of the accused, he, or she, shall be detained in  
41 close custody until peace is proclaimed, unless sooner  
42 discharged by the President; and as to such prisoner  
43 the writ of *habeas corpus* shall be suspended.

1 SEC. 9. When martial law shall be proclaimed in any  
2 city or corporate town, the military authority shall not  
3 interfere with the municipal government of the city or  
4 town, except as hereinbefore directed, unless requested by  
5 the municipal authorities to do so, but shall furnish all  
6 necessary military aid to the said authorities when re-  
7 quested by them to do so, for the purpose of enforcing  
8 police laws and regulations and preserving peace and  
9 good order.

1 SEC. 10. Under martial law the military authority shall  
2 have no right to interfere with the sale of any goods or  
3 commodities among citizens not in the army, or to regu-  
4 late, or attempt to regulate, the price of provisions or  
5 commodities of any kind; but it may make such rules

6 and regulations as may be deemed necessary for the go-  
7 vernment of the soldiers, and may regulate or prohibit  
8 intercourse and trading with the soldiers, and prescribe  
9 such penalties for violating the same as may be deemed  
10 necessary, subject to the approval of the President.

1 SEC. 11. This act shall continue in force during the  
2 war, unless sooner repealed.

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